

### **Remarks**

In claim 17, R<sup>1</sup> has been amended in view of the rejection under 35 USC §112, 1<sup>st</sup> paragraph. In addition, R<sup>2</sup> of claim 17 has been amended in view of Ali. Claims 18 and 19 have been amended in view of the amendment to R<sup>1</sup> in claim 17. In addition, claim 19 has also been amended in view of the claim objection to the term “wherein.” Claim 20 has been amended to create a Markush group in view of the claim objection. In addition, claim 22 was cancelled solely to expedite prosecution on the merits by obviating the rejection under 35 USC §112, 1<sup>st</sup> paragraph. It is submitted that no new matter has been added by the above amendments.

The Applicants acknowledge with appreciation that the previous rejections under 35 USC § 112, 2<sup>nd</sup> paragraph, and 35 USC § 103 were withdrawn.

### **Claim Objections**

Claim 19 was objected to because the Patent Office was of the believed that “wherein” should be deleted in the phrase “wherein –Z is a heterocyclic ring system from (c-1).” (Office Action at page 5.) In response, the term “wherein” has been deleted. It is believed that the instant objection has been overcome and should be withdrawn.

Claim 20 was objected to because the Patent Office was of the belief that the list of alternatives included in the claim should be set off by the Markush group language “selected from the group consisting of.” (Office Action at page 5.) In response, the Markush group language has been added. It is believed that the instant objection has been overcome and should be withdrawn.

### **Enablement Rejection**

Claim 22 stands rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement. (Office Action at page 7.)

The Applicants respectfully traverse this rejection for the reasons of record. Notwithstanding the foregoing, Applicants have cancelled claim 22 solely to expedite prosecution on the merits and reserve full rights to re-introduce the cancelled subject matter in this or any other patent application claiming the benefit of priority to the captioned application. It is submitted that the rejection is moot in view of the cancellation of claim 22 and withdrawal thereof is respectfully requested.

Claims 17, 21, and 22 were rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement. (Office Action at page 5.) The Patent Office admitted that the claims were enabling for compounds and/or compositions where R<sup>1</sup> is C<sub>1-6</sub> alkyl. (*Id.*)

At the outset, claim 22 has been cancelled, which renders the instant rejection moot as to that claim.

In view of this admission, R<sup>1</sup> in claim 17 has been amended to be C<sub>1-6</sub> alkyl solely to expedite prosecution on the merits and Applicants reserve full rights to re-introduce the cancelled subject matter in this or any other patent application claiming the benefit of priority to the captioned application. It is submitted that the rejection is moot in view of the amendment to R<sup>1</sup> in claim 17 and withdrawal thereof is respectfully requested.

Claim 21 depends from claim 17 and overcomes the instant rejection for the reasons set forth above.

#### **Obviousness-type Double Patenting**

Claims 17-22 also have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-4, 6, 12, 14-16, and 26-30 of co-pending application number 10/595,882. (Office Action at page 3.) At the outset, claim 22 has been cancelled, which renders the instant rejection moot as to that claim. The Office Action did not indicate that the rejected claims are otherwise allowable. Upon notification in the Office Action that claims 17-21 are allowable but for this rejection, the substance of this rejection will be addressed.

Finally, the Examiner is invited to call the applicants' undersigned representative if any further action will expedite the prosecution of the application or if the Examiner has any suggestions or questions concerning the application or the present Response. In fact, if the claims of the application are not believed to be in full condition for allowance, for any reason, the applicants respectfully request the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP § 707.07(j) or in making constructive suggestions pursuant to MPEP § 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,

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